

MATTER OF VARGAS-MOLINA

In Exclusion Proceedings

A-18863065

Decided by Board January 8, 1971

An applicant for admission, whether or not the application is made at a land port, and whether or not the special inquiry officer has entered a decision, may not withdraw his application as a matter of right; however, the special inquiry officer, in his discretion, may permit withdrawal of an application for admission if justice may best be served by permitting the withdrawal. [*Matter of Estrada-Tena*, 12 I. & N. Dec. 429, overruled; *Matter of Le Floch*, Interim Decision No. 1970, modified.]

EXCLUDABLE: Act of 1952—Section 212(a)(23) [8 U.S.C. 1182(a)(23)]—
Convicted of illegal importation of marihuana.

Act of 1952—Section 212(a)(26) [8 U.S.C. 1182(a)(26)]—
Nonimmigrant not in possession of valid visa.

ON BEHALF OF APPLICANT:
Pro se

ON BEHALF OF SERVICE:
Irving A. Appleman
Appellate Trial Attorney

The special inquiry officer excluded the applicant on the grounds stated in the caption and certified the case to the Board for final decision. No change will be made in his order.

This case concerns the right of an applicant for admission to withdraw his application before the special inquiry officer enters an order in exclusion proceedings.

The applicant, a 31-year-old single male, a native and citizen of Colombia, applied for admission in June 1969 as a nonimmigrant visitor for pleasure at San Juan, Puerto Rico. The Service learned that his nonimmigrant visa had been irregularly issued and that he had illegal possession of marijuana. The Service paroled him into the United States under section 212(d)(5) of the Act so that he could be prosecuted for possession of the marijuana. He was convicted on August 14, 1969 in the United States District Court for Puerto Rico for illegally importing marijuana.

A Service officer questioned the applicant on August 14, 1969 concerning his immigration status. The applicant attempted to